UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBINSON PERALTA, Plaintiff, -v- CITY OF NEW YORK et al., Defendants.	23-CV-10785 (JMF) MEMORANDUM OPINION AND ORDER

JESSE M. FURMAN, United States District Judge:

In this action, familiarity with which is assumed, Plaintiff Robinson Peralta, proceeding without counsel, alleges that Defendants violated his constitutional rights. By Opinion and Order dated April 18, 2024, the Court dismissed the case *sua sponte* under 28 U.S.C. § 1915(e)(2)(B) as barred by the doctrine of claim preclusion and, to the extent not precluded, as either time barred or improperly premised on statutes that do not provide a private cause of action. *See Peralta v. City of New York*, No. 23-CV-10785 (JMF), 2024 WL 1704774 (Apr. 18, 2024). Peralta appealed, and the Second Circuit affirmed the judgment, "agree[ing] . . . that dismissal of the complaint was warranted." *Peralta v. City of New York*, No. 24-1356-CV, 2024 WL 4866704, at *1 (2d Cir. Nov. 22, 2024). Peralta now moves, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, to vacate the Court's April 18, 2024 dismissal Order. *See* ECF No. 11. For the reasons stated below, the motion is DENIED.

"Motions under Rule 60(b) are addressed to the sound discretion of the district court and are generally granted only upon a showing of exceptional circumstances." *Mendell ex rel. Viacom, Inc. v. Gollust*, 909 F.2d 724, 731 (2d Cir. 1990). Measured against that high standard, Peralta's motion falls far short. Peralta asserts, for example, that the Court "fail[ed] to follow the

Second Circuit's procedural directives," ECF No. 13 ("Pl.'s Mem."), at 5, when, in reality, the Second Circuit "discern[ed] no reversible error in the procedure employed by the district court" to dismiss Peralta's Complaint, *see Peralta*, 2024 WL 4866704, at *1 n.1. The remainder of Peralta's objections merely relitigate the merits of the Court's dismissal Order. *See* Pl.'s Mem. 6-8. Rule 60(b) motions, however, "are properly denied where they seek only to relitigate issues already decided." *Moreno-Cuevas v. Huntington Learning Ctr.*, 501 Fed. App'x 64, 66 (2d Cir. 2012); *see also United Airlines, Inc. v. Brien*, 588 F.3d 158, 176 (2d Cir. 2009) ("We have warned, however, that a Rule 60 motion may not be sued as a substitute for appeal." (internal quotation marks omitted)). Accordingly, Peralta's Rule 60(b) motion must be and is denied.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Memorandum Opinion and Order would not be taken in good faith, and *in forma pauperis* status is thus denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to terminate ECF No. 11 and to mail a copy of this Memorandum Opinion and Order to Plaintiff.

SO ORDERED.

Dated: February 20, 2025
New York, New York

JESSE M. FURMAN
United States District Judge